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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,370	02/16/2001	James W. Borchering	PB 00 0013	5034

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EXAMINER

PEZZLO, JOHN

ART UNIT PAPER NUMBER

2662

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/785,370

Applicant(s)

BORCHERING, JAMES W.

Examiner

John Pezzlo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

I. Claims 1-7 and 9-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Fatehi et al. (US 6,535,313 B1) hereinafter Fatehi.

1. Regarding claim 1 – Fatehi discloses an exchange area network (XANI) xswitch, refer to Figure 4 callout 450 and column 5 lines 30 to 67 and column 6 lines 1 to 18.

Fatehi discloses a wide area network (WAN) wavelength switch coupled to the XAN xswitch, refer to Figure 4 and callouts 450 and 470 and column 5 lines 30 to 67 and column 6 lines 1 to 18.

2. Regarding claim 2 – Fatehi discloses wherein the XAN xswitch supports Ethernet and synchronous optical network (SONET) switching, refer to column 3 lines 3 to 33 and column 5 lines 43 to 63.

3. Regarding claim 3 – Fatehi discloses wherein the XAN xswitch comprises a packet switch that performs media access control (MAC) layering networking, refer to column 3 lines 3 to 33 and column 4 lines 39 to 45 and column 4 lines 54 to 60 and column 5 lines 43 to 63.
4. Regarding claim 4 – Fatehi discloses wherein the WAN wavelength switch supports wavelength switching, refer to Figure 4 and callout 470 and column 5 lines 30 to 67 and column 6 lines 1 to 18.
5. Regarding claim 5 – Fatehi discloses wherein the WAN wavelength switch implements dense wavelength division multiplexing (DWDM), refer to column 3 lines 3 to 33.
6. Regarding claim 6 – Fatehi discloses a digital crossconnect system (DCS) coupled to the XAN xswitch and the WAN wavelength switch, refer to Figure 1 callouts 101, and 103 and column 3 lines 3 to 33.
7. Regarding claim 7 – Fatehi discloses an internet protocol (IP) switch router coupled to the XAN xswitch and the WAN wavelength switch, refer to column 3 lines 3 to 33 and column 4 lines 54 to 60.
8. Regarding claim 9 – Fatehi discloses a data switch coupled to the XAN xswitch, refer to Figure 1 and column 3 lines 3 to 33.

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9. Regarding claim 10 – Fatehi discloses the data switch is an Asynchronous Transfer Mode (ATM) switch, refer to Figure 1 and column 3 lines 3 to 33.

10. Regarding claim 11 – Fatehi discloses a multimedia access head end coupled to the XAN xswitch, refer to Figure 1 and column 3 lines 3 to 64.

11. Regarding claim 12 – Fatehi discloses a server coupled to the xswitch, refer to Figure 1 and column 3 lines 3 to 33.

12. Regarding claim 13 – Fatehi discloses a local distribution node coupled to the XAN xswitch, refer to Figure 1 and column 3 lines 3 to 33.

13. Regarding claim 14 – Fatehi discloses an integrated access device (IAD) coupled to the XAN xswitch, refer to Figure 1 and column 3 lines 3 to 33 and column 5 lines 43 to 63.

14. Regarding claim 15 – Fatehi discloses an intercity network coupled to the WAN wavelength switch, refer to Figure 1 and column 3 lines 3 to 33.

15. Regarding claim 16 – Fatehi discloses a first gateway exchange node having an exchange area network (XAN) xswitch and a wide area network (WAN) wavelength switch, refer to Figure 4 and callouts 450 and 470 and column 5 lines 30 to 67 and column 6 lines 1 to 18.

Fatehi discloses a network operations center (NOC) coupled to the gateway exchange node, refer to Figure 4 callouts 420 and 430 and column 6 lines 25 to 42.

16. Regarding claim 17 – Fatehi discloses the NOC is coupled to the gateway exchange node via an internet protocol (IP) switch router, refer to Figure 1 and column 3 lines 3 to 33 and column 6 lines 25 to 43.

17. Regarding claim 18 – Fatehi discloses a second gateway exchange node coupled to the first gateway exchange node via the WAN wavelength switch, refer to Figures 1 and 4 and column 3 lines 3 to 33 and column 5 lines 30 to 67 and column 6 lines 1 to 25.

18. Regarding claim 19 – Fatehi discloses 19. The network of Claim 16, further comprising a local distribution node coupled to the first gateway exchange node via the XAN xswitch, refer to Figure 1 and column 3 lines 3 to 33.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fatehi (same as above).

1. Regarding claim 8 – Fatehi discloses a gateway exchange, which comprises a XAN switch and a wavelength switch, refer to Figure 4 and callouts 450 and 470 and column 5 lines 30 to 67 and column 6 lines 1 to 18.

Fatehi does not expressly disclose a voice switch coupled to the XAN switch.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to couple a voice switch to the XAN switch. The suggestion/motivation for doing so would have been that Fatehi discloses coupling the XAN switch to data sources such as SONET and ATM, which carry digitized voice traffic therefore coupling to a voice switch would expand the capabilities of the gateway to include voice as well as data.

2. Regarding claim 20 – Fatehi discloses an exchange area network (XAN) xswitch, refer to Figure 4 callout 450 and column 5 lines 30 to 67 and column 6 lines 1 to 18.

Fatehi discloses a wide area network (WAN) wavelength switch, refer to Figure 4 and callout 470 and column 5 lines 30 to 67 and column 6 lines 1 to 18.

Fatehi discloses a digital crossconnect system (DCS), refer to Figure 1 and column 3 lines 3 to 33.

Fatehi discloses a data switch, refer to Figure 1 and column 3 lines 3 to 33.

Fatehi does not expressly disclose a voice switch.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to couple a voice switch to the XAN switch. The suggestion/motivation for doing so would have been that Fatehi discloses coupling the XAN switch to data sources such as SONET

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and ATM, which carry digitized voice traffic therefore coupling to a voice switch would expand the capabilities of the gateway to include voice as well as data.

Fatehi discloses an internet protocol (IP) switch router, refer to Figure 1 and column 3 lines 3 to 33.

3. Regarding claim 21 – Fatehi discloses the XAN xswitch, WAN wavelength switch, DCS, data switch, voice switch, and IP switch router all include an operating system for networking, refer to Figures 1 and 4 and column 3 lines 3 to 33 and column 6 lines 25 to 43.

4. Regarding claim 22 – Fatehi discloses the WAN wavelength switch, DCS, data switch, voice switch, and P switch router all include a service delivery point, refer to Figures 1 and 4 and column 3 lines 3 to 33 and column 6 lines 25 to 43.

Response to Arguments

Applicant's arguments filed 8 December 2004 have been fully considered but they are not persuasive. Applicant argues on page 7 that Fatehi does not teach a XAN xswitch and that Fatehi does not teach a WAN wavelength switch coupled to the XAN xswitch. The examiner respectively disagrees. The applicant has written independent claims, which can be interpreted broadly. An exchange area network and exchange switch are terms used in the art which have obtained a broad definition since these terms have been used in both circuit and packet networks. Also the applicant has stated that the exchange switch is coupled to a WAN wavelength switch.

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The use of the broad term "coupled" does not in any way limit the exact nature of the connection between the WAN and exchange switch, as can be seen in Figure 4, the exchange switch 450 is coupled through unit 460 to the wavelength switch (callout 470) which forms a WAN. The examiner believes the claims read on the reference, Fatehi, and the rejection is proper. If the applicant feels an interview would help to advance prosecution please contact the examiner.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Pezzlo whose telephone number is (571) 272-3090. The examiner can normally be reached on Monday to Friday from 8:30 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou, can be reached on (571) 272-3088. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C.

or faxed to:

(703) 872-9306

For informal or draft communications, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

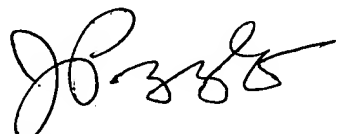
Jefferson Building

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Alexandria, VA.

John Pezzlo

25 March 2005



JOHN PEZZLO
PRIMARY EXAMINER